

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ZIARE CORWELL,

Plaintiff,

v.

ASSISTANT WARDEN LAFONDA
SPAULDING, SERGEANT ALEXANDER
DAVIS, and CORRECTION OFFICERS
JUAN ADAMES, CHRISTOPHER
BELTRAN, DEAN CARDILLO, MALIK
COZIER, LOUIS MELENDEZ, and JOHN
SCHIRILLO,

Defendants.
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ORDER

19 CV 3049 (VB)

Plaintiff, who is proceeding pro se and in forma pauperis, commenced this action by filing a complaint dated April 3, 2019. (Doc. #2). At that time, plaintiff was incarcerated at the Westchester County Jail. (See id. at ECF 1).

By letter dated December 30, 2020, defense counsel advised the Court that plaintiff was transferred to Downstate Correctional Facility on October 22, 2020, and was released from custody on November 2, 2020. (Doc. #40). The letter also states that plaintiff has failed to update his address on the docket, and that counsel does not have a viable address to contact plaintiff, thus frustrating their efforts to pursue pretrial discovery. Defense counsel says defendants intend to file a motion to dismiss for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

As the Court stated in its Order of Service dated April 10, 2019 (Doc. #6), it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so.

The April 10 Order of Service was mailed to plaintiff, along with an "Instructions for Litigants Who Do Not Have Attorneys" pamphlet and a blank "Notice of Change of Address" form. (Doc. #7). Like the April 10 Order of Service, the Instructions pamphlet also states it is plaintiff's responsibility to notify the Court in writing if his address changes, and the Court may dismiss the action if plaintiff fails to do so. (See id. at ECF 2). In its Amended Order of Service dated September 11, 2019 (Doc. #15), the Court reminded plaintiff of his obligation to notify the Court of any change of address, and that the Court may dismiss the action if he failed to do so. The Court did so again in its civil case discovery plan and scheduling order dated August 31, 2020. (Doc. #37).

To date, plaintiff has not notified the Court that his address has changed.

Accordingly, by February 4, 2021, plaintiff must update the Court in writing as to his current address. Failure to comply with the Court's Order may result in dismissal of the action for failure to prosecute or comply with Court orders. Fed. R. Civ. P. 41(b).

Chambers will mail a copy of this Order to plaintiff at the address on the docket and at the address listed for plaintiff on the cc line of defendants' December 30, 2020, letter.

Defendants are directed not to file a motion to dismiss for failure to prosecute at this time, pending plaintiff's response (or failure to respond) to this Order.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

Dated: December 30, 2020
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent L. Briccetti', written over a horizontal line.

Vincent L. Briccetti
United States District Judge